



Statement of Kenneth Katzman  
Specialist in Middle Eastern Affairs  
Congressional Research Service

before

The Subcommittee on International Organizations, Human Rights, and Oversight of the  
House Foreign Affairs Committee

Hearing: "Unfinished Business: United Nations Chapter VII Mandates and the US-Iraq  
Bilateral Agreement."

September 17, 2009

Thank you, Mr. Chairman, and Mr. Rohrabacher, for asking me to appear at today's hearing, as well as for past invitations. I will be discussing the Iraqi political context of the ongoing implementation of the U.S.-Iraq Security Agreement ("the Security Agreement"), which took effect on January 1, 2009, including Iraqi and Kuwaiti views on the potential termination of remaining Chapter VII mandates on Iraq. I will summarize my comments and ask that the remainder of my statement be submitted for the record.

I would note that my responsibilities at CRS include analysis of U.S. policy toward Iraq, U.S.-Iraq relations, Iraqi politics and the social and human rights situation in Iraq, as well as aspects of the insurgency and the various militias that are operating. I assert no expertise on or official responsibilities for analyzing, in legal terms, the provisions of the Iraqi constitution, international or U.S. law pertaining to U.S. forces in Iraq, or international law pertaining to U.N. Chapter VII mandates.

## **Overview of Iraqi Politics**

In evaluating the implementation of the U.S.-Iraq Security Agreement, including the provisions committing the United States to support the lifting of remaining Chapter VII resolutions, it is useful to assess where Iraqi politics stand. Iraqi politics will almost certainly determine whether Iraq votes on an early termination of the Security Agreement, and, if so, how the population will vote. Iraqi and regional politics will likely also play a major role in determining whether the Chapter VII U.N. mandates that remain in force, almost two decades after Iraq's August 1990 invasion of Kuwait, will be closed out before all tasks stipulated in those U.N. Resolutions are completed.

In general, Iraq's political system can be increasingly characterized by peaceful competition rather than violence. However, sectarianism and ethnic and factional infighting continue to simmer, and many Iraqi views and positions are colored by efforts to outflank, outmaneuver, and constrain rival factions. These tendencies will only grow in the run-up to the January 2010 elections.

Compounding the factional tensions is the perception that Prime Minister Nuri al-Maliki is in a strong position politically. This is a result of the strong showing of Maliki's "State of Law Coalition" list, dominated by his Da'wa (Islamic Call) Party in the January 31, 2009 provincial elections. His showing in those elections was, in turn, a product of his benefitting from an improved security situation, his position in favor of strong central government, and his March 2008 move against Shiite militias who were in virtual control of Basra and Umm Qasr port.<sup>1</sup> With 28 out of the 57 total seats, the Maliki slate won effective control of the Baghdad provincial council. His party also emerged very strong in most of the Shiite provinces of the south, including Basra, where it won an outright majority (20 out of 35 seats). Although Maliki's coalition was the clear winner in the provincial elections, the subsequent efforts to form provincial administrations demonstrated that he still needed to bargain with rival factions, including that of young Shiite cleric Moqtada Al Sadr, and even with some Sunni factions.

Possibly as a result of his strengthened position and his drive to ensure that he holds power after the January 16, 2010 national elections, Maliki is seen by rivals as increasingly authoritarian. Maliki is widely assessed, by U.S. and Iraqi experts, as attempting to gain control of the security services and to build new security organs loyal to him personally rather than to the security institutions. Some have accused him of purging security officials he perceives as insufficiently loyal or supportive.<sup>2</sup> He has also reportedly been using the security forces to politically intimidate his opponents. One politician in Diyala Province, for example, was arrested in May 2009 on orders from Maliki.<sup>3</sup> Iraq's 4,000 special operations forces do not report to the Defense Ministry or to the Interior Ministry; they are under the authority of Maliki's Office of the Commander-in-Chief. (Iraq's Prime Minister, not its President, is commander-in-chief of the armed forces.) Some of Maliki's opponents and critics say these political tactics mimic the steps taken by Saddam Hussein to centralize his rule.<sup>4</sup>

During the negotiations on the U.S.-Iraq Security Agreement during 2008, Maliki viewed the agreement as crucial to preserving his close relationship with the United States and, in his view, an implicit U.S. commitment to his political success. However, he also used the Security Agreement for his own political interests, to some extent. Contributing to a perception of Maliki as a strong leader was his insistence, during negotiations on the Agreement, on concessions from the United States. U.S. negotiators, wanting to protect U.S. forces while also demonstrating the Iraqi government to be sovereign and in control, agreed to these concessions and they are in the final document.

First and foremost was Maliki's demand that the agreement include a formal timetable for a U.S. withdrawal. The Bush Administration had long opposed some efforts in Congress to set a timetable for the U.S. withdrawal, but accepted that principle as the security situation in Iraq began to calm in late 2007/early 2008. President Obama, on February 27, 2009, outlined a U.S. troop draw-down plan that comports with the major drawdown timetable provisions of the Security Agreement – i.e., that U.S. forces would cease patrolling Iraqi cities by June 30, 2009, and that all U.S. forces would depart from Iraq by December 31, 2011.

---

<sup>1</sup> In March 2008, Maliki sent Iraqi security forces against Shiite militias in "Operation Charge of the Knights."

<sup>2</sup> Allam, Hannah. "Maliki Accused of Purging Rivals Before Iraqi Election." *Philadelphia Inquirer*, September 9, 2009.

<sup>3</sup> Shadid, Anthony. "In Iraq, A Different Struggle for Power." *Washington Post*, June 25, 2009.

<sup>4</sup> CRS conversations with Kurdish representatives in Washington, D.C. September 2009.

---

At the same time, demonstrating that to some extent Maliki might be beholden to or attentive to Iran's positions, Maliki insisted that the final draft include a provision that U.S. forces would not use facilities in Iraq to attack other countries. Including the provision helped Maliki obtain Iran's acquiescence to the Security Agreement; some U.S. officials said that Iran was attempting to influence Iraqi politicians not to approve the agreement at all.<sup>5</sup>

Since the agreement took effect, Maliki -- partly in an effort to portray himself as a strong leader who is willing to stand up even to the close ally, the United States -- has insisted on strict enforcement of these timelines. He has taken this insistence to the point where he refused U.S. advice to retain some U.S. combat forces in Mosul beyond the June 30, 2009 date, stipulated in the Agreement, for withdrawing U.S. combat troops from Iraq's cities.<sup>6</sup> U.S. military leaders had also reportedly urged the Iraqis to allow small numbers of U.S. forces to remain in locations in the restive "Sadr City" neighborhood of Baghdad, but that, too, was rebuffed. When the United States fully implemented that June 30, 2009 pullback, Maliki hailed this interim milestone as a "victory" and declared it a national holiday.

### Maliki's Vulnerabilities as Opposition Gathers

On the other hand, Maliki's political position in Iraq is not unassailable, and it could be argued that he might "sink or swim" with changing perceptions of the security situation. His position could potentially weaken, even dramatically, if the security situation deteriorates as the United States draws its troops down in Iraq. The performance of the Iraqi Security Forces (ISF) will be crucial to his prospects. If the ISF is able to handle the security challenges they are assuming from the United States, Maliki might be able to retain his strong pre-eminence. If the ISF is unable to handle security, then Maliki's insistence on strict adherence to the Security Agreement's withdrawal timetables could end up as Maliki's political undoing. In that vein, the August 19, 2009 bombings in Baghdad that severely damaged two key ministries, which presumably are heavily guarded, and which killed about 100 Iraqis, were politically significant because they shook Maliki's confidence and demonstrated that perceptions of political strength can be tested unexpectedly. Iraq placed blame on members of Saddam Hussein's Baath Party, based in and harbored by Syria, and the bombings led to a diplomatic dispute between the two neighbors that resulted in their withdrawal of their ambassadors from each other's capitals.

Still, because Maliki remains politically strong for now, new coalitions are already forming possibly to try to unseat him as Prime Minister, or at least to weaken him politically. The major opportunity to do so is the January 16, 2010 national elections that are to determine Iraq's national leadership for the subsequent four years. In advance of that contest, Iraqi factions are negotiating alliances that might outflank Maliki. The major effort in this direction was the late August formation of the "Iraqi National Alliance" (INA) consisting of ISCI, the Sadrist movement, the Fadilah (Virtue) Party, allies of Ahmad Chalabi's Iraqi National Congress, and followers of former Prime Minister Ibrahim al-Jafari. Maliki's Da'wa did not join on the grounds that the organizers of the group, mainly ISCI, did not promise that the bloc would propose him as Prime Minister if it wins in January 2010. The bloc was announced three days before the death in Tehran of ISCI leader Abd al-Aziz al-Hakim, and it is unclear the degree to which his son and new ISCI leader Ammar al-Hakim, who is about 38 years old, was the architect of this bloc. Some reports say the organizer of the bloc was ISCI stalwart Hummam al-Hammoudi, who is a cleric and probably would not be put forward as Prime Minister if this new faction is victorious.<sup>7</sup> However, many

---

<sup>5</sup> Londono, Ernesto. "Iran Interfering in U.S.-Iraq Security Pact, General Says." *Washington Post*, October 13, 2008.

<sup>6</sup> "Odierno: "U.S. Committed to June 30 Pullback." *Associated Press*, June 17, 2009.

<sup>7</sup> CRS conversation with Steven Lee Myers, New York Times reporter in Baghdad. August 29, 2009.

observers believe that, if this new coalition were to prevail in the elections, the most likely choice for Prime Minister would be senior ISCI figure Adel Abd al-Mahdi, who currently serves as a deputy President.

Not all the groups in this bloc are critics of the U.S.-Iraq Security Agreement. Sadr, as is well known, was highly critical and his followers in the National Assembly all voted against it in the November 2008 parliamentary vote on the final pact. *Fadhila* Party members, which number about 15 in the National Assembly, boycotted the vote. However, ISCI has generally supported the U.S. presence in Iraq and supported the Agreement.

Some question why former Prime Minister Iyad al-Allawi, a witness on the second panel of this hearing, did not join the new alliance. He has been a Maliki critic and has even been mentioned over the past few years as a figure who was agitating to replace or oust Maliki. Observers speculate that his Iraq National Accord bloc did not join the new coalition because of Allawi's longstanding rivalry with Ahmad Chalabi to be pre-eminent anti-Saddam leader. Chalabi is purportedly a key organizer of the new bloc.

By all accounts, Maliki is well aware that his opponents are organizing against him. He is trying to put together a countervailing bloc that might include several Sunni factions. For example, he is reportedly in talks with tribal leaders in Anbar Province and other mainly Sunni provinces, linked to the "Awakening" tribal movement that expelled Al Qaeda in Iraq from these areas.<sup>8</sup> He also has purportedly had talks about alliance with one of the witnesses on the second panel, Saleh al-Mutlak, who heads the Iraq National Dialogue Front. Many of these Sunni factions at first opposed the U.S.-Iraq Security Agreement, perceiving it as a vehicle for U.S. combat troops to remain in Iraq to perform combat missions against Sunni insurgents. At the time, however, most Sunni blocs in the National Assembly voted for the Security Agreement because U.S. troops were perceived as protecting Sunnis from excessive security measures undertaken by Maliki and his Shiite allies – measures that were seen as intended to ensure Shiite dominance of the post-Saddam political structure.

Maliki's discussions with Sunni factions might not necessarily bear fruit. There are indications that the leader of the Accord Front, a large Sunni bloc, deputy President Tariq al-Hashimi, is attempting to put together a separate Sunni-based bloc. Many Sunnis resent Maliki for his refusal to fully integrate the "Sons of Iraq" (tribal fighters that allied with the United States against Al Qaeda in Iraq) into the ISF. Some of the 90,000 Sons of Iraq are resentful that only 5,000 have been integrated into the ISF (of 20,000 promised), and that the remainder have not yet been given the civilian government jobs they were promised.<sup>9</sup> Others complain that their payments have been delayed, which the government claims is due to cash shortfalls resulting from the sharp fall in oil prices in late 2008, although the June 2009 DoD "Measuring Stability" report says the payment process is now proceeding smoothly. (Iraq is expecting a budget deficit of about \$16 billion in 2009.)

The infighting between Maliki and his critics has also had the effect of stalling movement on remaining crucial legislation. Such legislation includes national hydrocarbon laws that will set terms for foreign oil investment and a formula for sharing national oil revenues. Some note that efforts to rein in official corruption are failing because no comprehensive anti-corruption law has been passed. Also not adopted are laws on the environment, consumer protections, intellectual property rights, building codes, and a new national flag. The national hydrocarbon laws are stalled by the differences, discussed further below,

---

<sup>8</sup> Dagher, Sam. "In Anbar Province, New Leadership, But Old Problems Persist." *New York Times*, September 13, 2009.

<sup>9</sup> Defense Department "Measuring Stability and Security in Iraq." June 2009.

between the central government and the Kurds, in a political environment in which no Iraqi Arab leader wants to be seen as offering major concessions to the Kurds.

Maliki's outreach to Sunni Arabs to strengthen his position has created additional frictions between him and the Kurds. In particular, a hardline Sunni Arab faction called Al Hadba'a wrested control of the Nineveh provincial council from the Kurds in the January 2009 provincial elections. Nineveh contains numerous territories inhabited by Kurds and which have been a source of growing tension between the Kurdistan Regional Government (KRG) and the central government in Baghdad. Kurds and Arabs in the province narrowly avoided clashes in May 2009 and again in June 2009 when Kurdish security forces prevented the new governor of the province and other Iraqi Arab security officials from entering territory where Kurds live. Any new clashes between Arabs and Kurds in the north could undermine Maliki's image as a strong national leader, and could cause many Iraqis to question whether the December 2011 pullout deadline in the Security Agreement can be met.

Maliki is, according to some observers, also in talks with a Kurdish faction, called Change (Gorran), that won an unexpectedly high 25 seats (out of 111) in the Kurdistan national assembly in the July 25, 2009 Kurdistan Regional Government (KRG) elections. Gorran is a breakaway faction of the Patriotic Union of Kurdistan (PUK), and its strength embarrassed the PUK and weakened it relative to the KDP. The KRG President Masoud Barzani, leader of the KDP, easily won re-election against weak opposition. Gorran believes in lowering the level of confrontation with Baghdad and its allying with Maliki could allow Maliki to outflank the two established Kurdish parties in negotiations over the various KRG-Baghdad disputes.

In advance of the major legislative elections set for January 16, 2010, at which Maliki's position will directly be up for review, it is highly unlikely that Maliki will make concessions to the Kurds on territorial issues, particularly that of the status of Kirkuk. A U.N. Assistance Mission – Iraq (UNAMI) report circulated to Iraqi leaders in April 2009 reportedly recommended a form of joint Baghdad-Kurdish control of Kirkuk,<sup>10</sup> but this report has not to date jump-started substantive negotiations on an agreed settlement. This compounds the tension over control of the disputed areas of Nineveh Province, discussed above.

## Major Security Issues

The Obama Administration is facing a security environment in Iraq vastly improved over that which prevailed during 2005-2007, although still not completely peaceful or without potential to deteriorate significantly. The security progress during 2008 and 2009 is almost universally attributed to the 2007 "troop surge" – an infusion of an additional 28,000 U.S. troops coupled with a more systematic counter-insurgency strategy. However, some also attribute the progress to internal Iraqi factors, such as popular Sunni Arab rejection of Al Qaeda in Iraq tactics. The surge has been credited with returning most cities to normal daily life and with reducing sectarian killings more than 90% from levels of the same time period in 2007.<sup>11</sup>

Based on the security progress, on February 27, 2009, President Obama outlined U.S. plans to draw down U.S. troops in accordance with his previously stated intentions and the U.S.-Iraq Security Agreement. According to President Obama's withdrawal plan, all U.S. combat troops are to depart by August 31, 2010, leaving a "residual presence" of about 35,000–50,000 primarily to train and advise the ISF and to

---

<sup>10</sup> Defense Department "Measuring Stability and Security in Iraq." June 2009.

<sup>11</sup> DoD Measuring Stability report. June 2009.

perform counter-terrorism missions against Al Qaeda in Iraq, the insurgent group composed mainly of foreign fighters. The U.S. forces would remain there until the end of 2011 at which time the Security Agreement requires all U.S. forces to be out of Iraq. As noted, U.S. forces met the interim step, in line with the Security Agreement, to pull combat troops out of cities by June 30, 2009.

Meeting this interim goal gave the Iraqi public the impression that the United States intends to scrupulously adhere to the agreement. In so doing, the United States undermines the arguments of the Sadrists and other factions that the United States intends to remain in Iraq despite the Security Agreement.

The subsequent drawdown is to be “back-loaded.” At the time of the June 30, 2009 redeployment from the cities, the size of the U.S. military presence stood at about 130,000. General Odierno has said the force will be about 120,000 in Iraq by September 2009.<sup>12</sup> After that time, the remaining 70,000 + combat troops are to leave after the Iraqi national elections on January 30, 2010. Then, the “residual” force of trainers and mentors are to come out between August 2010 and December 2011.

However, there is wide speculation that the U.S. drawdown is increasing the fragility of the security situation. Particularly worrisome to some U.S. officials has been a recent rise in the frequency of major bombings – “high profile attacks” (HPAs). The Finance and Foreign Ministry attacks on August 19, which shook Baghdad, were mentioned above. Many additional recent attacks have been conducted in Nineveh Province, where Al Qaeda in Iraq is said to retain a substantial presence, in disputed Kirkuk, and in Baghdad. Some believe AQ-I is targeting Shiite civilians in Baghdad, possibly in an effort to reignite sectarian violence, although without success in achieving that objective. Others believe that the insurgency in Iraq never really went away, but has lain low to wait out the U.S. withdrawal. That theory will be tested as U.S. troops draw down from Iraq.

The top U.S. commander in Iraq, General Raymond Odierno, said on June 30, 2009 that the pace of subsequent draw-down could be altered in response to developments in Iraq but he did not indicate that U.S. forces would be added if security deteriorates.<sup>13</sup> Whether U.S. troops need to stay in Iraq beyond 2011 to prevent a major unraveling could be determined by the progress of the ISF. General Odierno stated, in interviews conducted in conjunction with the U.S. redeployment out of Iraqi cities, that the United States judges the ISF as likely to be able to handle its increasing security responsibilities as the United States draws down.<sup>14</sup> Some outside observers remain skeptical of the ISF’s capabilities, however, and believe the force is vulnerable to fracture or defeat if left totally on its own.

## **The U.S.-Iraq Agreement and Residual U.N. Issues**

Iraqi politics has heightened debate within Iraq over the U.S.-Iraq Security Agreement. As noted above, some factions opposed the Agreement when it was first approved by the Iraqi National Assembly. As part of a compromise to achieve Assembly passage of the Agreement, Maliki agreed to a parliamentary vote on the Agreement at a future time. The legislation approving the Agreement stipulated that there would be a national referendum on the Agreement by July 31, 2009.

With no Iraqi faction actively agitating for the referendum, the national vote was not held on July 31, 2009. However, on August 17, 2009, the Iraqi cabinet approved draft legislation to hold the referendum

---

<sup>12</sup> Press conference by General Odierno from Baghdad. June 30, 2009.

[http://www.cfr.org/publication/19737/press\\_conference\\_with\\_gen\\_ray\\_odierno\\_on\\_mnf\\_forces\\_in\\_iraq\\_june\\_2009.html](http://www.cfr.org/publication/19737/press_conference_with_gen_ray_odierno_on_mnf_forces_in_iraq_june_2009.html)

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

---

concurrent with the national elections to be held on January 16, 2010. If that referendum is held, and the pact is voted down, U.S. troops would be required to complete a withdrawal by January 16, 2011, about one year earlier than now planned. At a House Foreign Affairs Committee hearing on September 10, 2009, U.S. Ambassador to Iraq Christopher Hill said he did not believe the National Assembly would act on the draft legislation on the grounds that there is a perception in Iraq that the United States is fulfilling its terms.<sup>15</sup> The National Assembly returned from its recess on September 9, 2009 but no action has been taken, to date, on the draft.

The Security Agreement gives Maliki several opportunities to burnish his Iraqi nationalist credentials and outflank his political opponents. By allowing a cabinet vote on Security Agreement referendum draft bill, he demonstrates to rivals that he is willing to take Iraqi views into account on the Agreement. At the same time, Maliki is attempting to hold the United States to its pledge, under the Agreement, to help Iraq regain its full sovereignty from Saddam-era Chapter VII Resolutions that still upset many Iraqis. Many Iraqis view the Chapter VII Resolutions as an intrusion and limitation on post-Saddam Iraqi sovereignty, and as holding the Iraqis subject to Saddam's transgressions. Because Iraqi Sunni Arabs were Saddam Hussein's base of support in Iraq, many Sunni Arabs in Iraq today perceive themselves as receiving "blame" from other Iraqis for placing Iraq under Chapter VII supervision originally and for the hardships Iraq still faces from the U.N. Security Council.

Maliki's July 2009 visit to the United States focused on closing U.N. issues left over from the Saddam era. The U.S.-Iraq Security Agreement replaced the Chapter VII U.N.-mandate for an international force to help secure Iraq, which expired as of December 31, 2008. However, the expiration of the mandate did not end all provisions of U.N. Security Council resolutions that have been in effect since Saddam Hussein's invasion of Kuwait in August 1990.

Article 25 of the Security Agreement commits the United States to "us[ing] its best efforts to help Iraq take the steps necessary to" return Iraq to the legal and international standing it enjoyed prior to that Iraqi invasion of Kuwait.<sup>16</sup> Almost all of these provisions were adopted under Chapter VII of the U.N. Charter, which refers to peace and security issues. Paragraph 5 of U.N. Security Council Resolution 1859 (December 22, 2008), which is discussed further below, provides for a review of all outstanding U.N. Security Council resolutions that stem from the Iraqi invasion of Kuwait in August 1990.

In debate over that Resolution released in U.N. transcripts, the United States supported that review. However, Kuwaiti leaders, in letters to the U.N. Secretary General, have insisted that unresolved issues remain open, whereas Iraq is pressing for an early closing of these issues even if not fully resolved. As discussed below, a key difference between the two involves whether to continue reparations to Kuwait from the 1990 Iraqi invasion – reparations that cost Iraq \$660 million in 2009 (January – June 2009), according to a report of the Secretary General on Resolution 1859 ("The 1859 Report").<sup>17</sup>

Iraq views this continuing reparations process as unnecessarily siphoning funds off from its oil revenues which could otherwise be used for economic development for its people. Kuwait argues it should be fully compensated for the effects of the Saddam invasion. However, many observers feel that Kuwait is fully reconstructed and remains wealthy, and should offer to end the reparations process in the interests of

---

<sup>15</sup> Testimony of Ambassador Hill before the House Foreign Affairs Committee. September 10, 2009.

<sup>16</sup> Text of the "Strategic Framework Agreement for a Relationship of Friendship and Cooperation Between the United States of America and the Republic of Iraq."

<sup>17</sup> U.N. Security Council. Report of the Secretary General Pursuant to Paragraph 5 of Resolution 1859 (2008). July 27 2009. S/2009/385

regional harmony and good relations with post-Saddam Iraq. The United States considers Kuwait a close ally, and remains dependent on Kuwait for facilities and logistical assistance as it withdraws from Iraq. However, the United States has sided with Iraq on this issue; after a meeting with visiting Prime Minister Maliki on July 22, 2009, President Obama said “It, I think, would be a mistake for Iraq to continue to be burdened by the sins of a deposed dictator.”<sup>18</sup> The Amir of Kuwait, Shaykh Sabah al Ahmad al Jabir Al Sabah, visited the United States and met with President Obama on August 3, 2009, but did not directly criticize the U.S. position. The visit came a few weeks after the Maliki visit, but the official statements by President Obama and the Amir after the meeting made no mention of the Chapter VII issue. Still, observers said this was almost certainly discussed at the meeting and during the remainder of the Amir’s U.S. visit.<sup>19</sup>

## Specific Outstanding Issues

The following addresses the major outstanding issues of the Chapter VII mandates on Iraq, and discusses Iraqi and Kuwaiti and other views. Some of the information is derived from the July 27, 2009 “1859 Report,” referenced above:

*Sanctions Committee.* Security Council Resolution 661 (August 6, 1990) established a U.N. Committee overseeing sanctions on Iraq, which at that time consisted of a comprehensive, worldwide embargo on Iraq. The Iraq “Sanctions Committee” was abolished in November 2003 by Security Council Resolution 1483 (May 22, 2003) – in concert with the lifting of the embargo and a return to normal trading relations with Iraq -- and was replaced by a new committee authorized by Resolution 1518 (November 24, 2003) limited in scope to identifying and ensure the freezing of Iraqi assets taken out of Iraq by Saddam and his political allies.

*Disarmament and Weapons Inspections.* U.N. Security Council Resolution 687 (April 3, 1991, four days after the end of hostilities in the Gulf War) demanded Iraq dismantle and “render harmless” its weapons of mass destruction (WMD) programs, and set up a United Nations-led inspections and dismantlement program. The U.N. inspection and disarmament program was formally terminated by U.N. Security Council Resolution 1762 of June 29, 2007 following an exhaustive U.S.-led post-Saddam search of Iraqi WMD. However, Resolution 687 and related Chapter VII resolutions still apply insofar as they require that Iraq adhere to all international conventions and treaties related to developing WMD, and continue to require Iraq halt all nuclear activities with certain exceptions (medical, agricultural purposes) and these restrictions continue to apply to the post-Saddam government. The “1859 Report” indicates Iraq’s general compliance with these requirements, and mentions that Iraq’s constitution commits Iraq to non production of nuclear, chemical, and biological weapons.<sup>20</sup>

No Iraqi leader is openly agitating for an abrogation of Iraq’s pledges and the launching of any new WMD programs. However, the advance of Iran’s nuclear program, coupled with the development of civilian nuclear programs in UAE and in other parts of the Middle East, could create pressure over time for Iraq to rethink this pledge.

Some of Iraq’s Sunn Arab neighbors would view with alarm any Iraqi effort to do so. These governments, particularly Saudi Arabia, still have not fully accepted the fact that Iraq is now dominated

---

<sup>18</sup> Iraq’s War on Debt. Middle East Economic Digest, August 21-27, 2009.

<sup>19</sup> CRS conversations with observers in Kuwait and in the United States. August 2009.

<sup>20</sup> 1859 Report. pp.8-11.



politically by Shiite Muslims. Saudi Arabia would likely view any Iraqi effort to rebuild WMD as a threat and as part of a looming alliance with Shiite Iran to overturn the existing Sunni-dominated power structure in the Arab world.

*Iraq-Kuwait Observer Mission and Demilitarized Zone.* Many of the provisions of Resolution 687 applied to Iraq and Kuwait. Resolution 687 set up a U.N. mission observing the Iraq-Kuwait border, and a related demilitarized zone in Iraq and Kuwait. The observer mission and demilitarized zone were terminated by Resolution 1490 of July 3, 2003.

*Iraq-Kuwait Border.* Resolution 687 directed the U.N. Secretary-General to demarcate the Iraq-Kuwait border. Resolutions 773 and 833 accepted U.N. demarcation of new land and sea borders, respectively. The new land border angered many Iraqis because it deprived Iraq of part of Umm Qasr port and a strip of the Rumaylah oil field, which straddles the border. Perhaps because of Iraq's upset at the new demarcation, there is a remaining dispute between Iraq and Kuwait over the costs of maintaining the pillars marking the border. Many Iraqis perceive a "double penalty," of not only having to cede some territory to Kuwait but also being asked to pay to help maintain the new border marking system.<sup>21</sup> The "1859 Report," referenced above, expresses optimism that "the Governments of Iraq and Kuwait should be in a position to establish an effective joint mechanism, such as a boundary commission, to carry out maintenance of the boundary bilaterally in the future.

*Kuwaiti Detainees and Property.* U.N. Security Council Resolution 686 and 687 required Iraq to return all property seized from Kuwait and to identify the fate of 605 Kuwaitis missing from the 1991 Gulf war. That process achieved only halting progress under Saddam and U.N. Security Council Resolution 1284 set up a U.N. coordinator to clear up these issues. A Russian diplomat, Yuli Vorontsov was appointed in 2000 as the coordinator but he was succeeded in April 2008 by another Russian diplomat, Gennady Tarasov. The remains of 236 Kuwaitis have been identified, and Kuwait's national archives have still not been located (although some Kuwaiti records were returned recently) but Iraq is pressing to end the coordinator's mission. The "1859 Report" (page 8) encourages Iraq to help determine the fate of the remaining Kuwaiti and other nationals but, in an apparent nod to Iraq's position, says that "... it is possible that not all remains and properties will be found and that the search will have to come to an end."

*Compensation Payments.* As noted above, this is the most sensitive of the outstanding issues to the Iraqis, because this issue directly detracts from the amount of financial resources for the government of Iraq. Resolution 687 set up a process to compensate victims of the Iraqi invasion -- individuals, governments, and corporations. The payments have been funded by mandated deductions from Iraqi oil revenues, paid into a U.N. Compensation Fund. The initial amount, set in 1991, was 30%, but this was reduced to 25% by Resolution 1284. That figure was reduced to 5% of Iraq's revenues by Resolution 1483 of May 22, 2003. Those deductions are ongoing, and Kuwait is still owed about \$25 billion in accordance with U.N. Compensation awards made. Those awards are mostly from the damage done to Kuwait oil fields by the Iraqis as they retreated from Kuwait in 1991. Based on "1859 Report," cited above, the Iraqi revenues deducted during January – July 2009 amounted to about \$660 million.

Iraqi leaders, in a December 7, 2008 letter to the U.N. Security Council, are pushing for a further reduction of the oil revenue deduction to pay compensation to 1%, from the current 5%, if not an outright end to the process. The Iraqi government argues that the payments represent a financial burden at a time that Iraq needs the funds to rebuild its infrastructure.

---

<sup>21</sup> CRS conversations with various Iraqi representatives in Washington, D.C. August – September 2009.

*Monitoring of Iraqi Funds.* The continued international monitoring of Iraq's oil revenues represents, for many Iraqis, a sign of continued international limitations on Iraq's sovereignty. Maliki is pressing strongly for an end to this outside monitoring as part of his efforts to portray himself as an Iraqi nationalist.

Resolution 1483, referenced above, set up a "Development Fund for Iraq" (DFI) to receive the proceeds of Iraqi oil sales. During 1995-2003, those proceeds were being paid into the U.N. Escrow Account to fund a monitored "Oil for Food Program" that enabled Iraq to sell oil and purchase necessities provided to its people. The DFI, in accordance with Resolution 1483 and its successor resolutions, is audited by an International Advisory and Monitoring Board (IAMB). Iraqis oppose such monitoring as an infringement on its sovereignty and U.N. Security Council Resolution 1859 (December 22, 2008) extends the IAMB authority only until December 31, 2009. In April 2009, the IAMB stated that Iraqi auditing bodies are "ready and capable to succeed the IAMB and conduct competent and independent oversight of the DFI." However, the IAMB warned that Iraq still lacks oil production metering equipment necessary for precise control of inventory and accounting. The "1859 Report," cited above, says that, at the end of 2009, the Security Council is likely to discuss whether to cede this oversight function to an Iraqi body called the "Iraqi Committee of Financial Experts."

*U.N. Assistance Mission – Iraq.* Several U.N. resolutions assign a role for the United Nations in post-Saddam reconstruction and governance. Resolution 1483 (cited above) provided for a U.N. special representative to Iraq, and "called on" governments to contribute forces for stabilization. Resolution 1500 (August 14, 2003) established U.N. Assistance Mission for Iraq (UNAMI), the mandate of which has been regularly extended since. Iraqi leaders do not criticize UNAMI's humanitarian coordinating and other work, per se. However, UNAMI represents the continuing U.N. role in Iraq and many of the nationalistic Iraqi factions believe that Iraq can and should manage all of its own affairs without U.N. interference.

*Human Rights Issues.* U.N. Security Council Resolution 688, of April 5, 1991, demanded Iraq end the repression of its own people. Iraq now has a different regime than the one addressed by this Resolution, and it is not clear whether this Resolution still applies. The Resolution was not enacted under Chapter VII of the U.N. charter and therefore, even if it still applies and even if Iraq were deemed in violation, it is not clear that any international penalties would necessarily be imposed.

Still, Maliki and his allies assert that Iraq is meeting its international obligations, including on human rights, and that there is no need for specific international scrutiny of Iraq on this issue. State Department reports on international human rights practices, issued each year, note numerous human rights abuses in Iraq but generally attribute these to the general security difficulties and problems enforcing rule of law, rather than deliberate abuses by the government. However, Maliki's political opponents might argue that the Resolution still applies and these opponents could use any violations to discredit Maliki and his government.

Thank you for your time and attention and I look forward to your questions.

---